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CIVIL REVISION APPLICATION NO. 1899 OF 1995

Date of decision: 06/02/96

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.SHAH

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

NAGIN MOHANBHAI SOLANKI

vs

RAMILABEN NAGINBHAI SOLANKI

Appearance:

MR GI DESAI for Petitioner

MR R.S. PANDYA for respondents

Coram : MR.JUSTICE S.D.SHAH

Date : 6th February, 1996

ORAL JUDGEMENT

1. RULE. Mr. R.S. Pandya appears and waives service of Rule on behalf of respondent. With the consent of the learned advocates appearing for the parties, this Civil Revision Application is finally heard and disposed of today.

2. The petitioner husband has applied to the Court to proceed further with the Hindu Marriage Petition No. 168 of 1992 by tendering application at Exhibit 52. The trial court has stayed the proceeding of Hindu Marriage Petition on the ground that the husband has failed to deposit the amount of interim alimony. The total amount payable by the husband to the wife and the child works out to Rs. 13,000/- as against which, the husband has deposited only Rs. 1,000/-. The trial court has therefore by impugned order dated 8th February, 1995 stayed the application and called upon the husband to pay the balance amount and thereafter he has ordered that the proceeding of Hindu Marriage Petition No. 168 of 1992 will be resumed.

3. At the hearing of this petition, Mr. G.I. Desai, the learned Counsel appearing for the husband has stated to the Court that the petitioner husband shall deposit amount of Rs. 6,500/- (Rupees Six thousand and five hundred only) in the trial court within a month from today i.e. by 8th of March, 1996. The petitioner is accordingly directed to deposit amount of Rs. 6,500/- by 8th of March, 1996 in the trial court. The petitioner has also agreed through his advocate that he would further pay up the balance amount by depositing amount of Rs. 3,00/- (Rupees three hundred only) per month in the trial court. The petitioner husband is accordingly directed to pay the instalment of Rs. 300/- starting from 8th April, 1996 till the balance amount of the maintenance is fully paid up. After the amount of Rs. 6,500/- as directed hereinabove is paid up, the fourth Extra Assistant Judge, Vadodara is directed to proceed further with hearing of HMP No.1 168 of 1992. The respondent wife is at liberty to withdraw amount of maintenance which may be deposited in the trial court by the petitioner.

4. The petitioner is otherwise liable to pay the amount of maintenance as directed by the trial court every month. The aforesaid observations would not amount to permitting the petitioner not pay the amount of maintenance which becomes due and payable every month. He shall continue to pay the amount of

maintenance which becomes due and payable every month over above the payment of installments as directed hereinabove.

5. In view of the aforesaid, the order passed by the Fourth Extra Assistant Judge, Vadodara dated 8th February, 1995 is quashed and set aside and is substituted by the aforesaid direction. Rule is made absolute to the aforesaid extent only. Direct service is permitted.
